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Virginia Litter Control & Recycling Fund Advisory Board Quarterly Meeting August 13, 2003

Board Members

Dennis Gallagher, Chairman
Rosemary Byrne
Aimee Hadfield (by teleconference)
Michael J. O'Connor

George Hunnicutt, Absent

Chairman Gallagher announced there was a quorum and called the meeting to order at 10:30 a.m. He welcomed Michael J. O'Connor as a new member of the Board, replacing Larry Dennison. He congratulated Ms. Byrne on her reappointment to the Board.

Ms. Byrne moved, and Ms. Hadfield seconded, approval of the August 13, 2003 meeting agenda. MOTION CARRIED.

Freedom of Information Act & Conflict of Interest Presentation

Freedom of Information Act: Cindy Berndt, Department of Environmental Quality (DEQ) Policy Office, stated Virginia's Freedom of Information Act (FOIA - Chapter 37, Title 2.2-3707) assures the public notice of and access to state board meetings; and ensures that meeting documents and minutes are provided to the public. DEQ staff responds to FOIA requests and legal technicalities and act as custodian to the Litter Board records. The FOIA law provides for exceptions to public access, such as confidential materials and closed meetings. Ms. Berndt explained that conference call attendance at meetings is permissible if a quorum of Board members is physically present in a public location.

Ms. Berndt stated that, by September 15, a report would be prepared by DEQ for distribution to the Virginia Freedom of Information Advisory Council and the Division of Legislative Services stating the number of Board meetings held, attendance at the meetings, and whether a quorum was present, among other things.

Conflict of Interest: Ms. Berndt reported that the Virginia statute on Conflict of Interest applies to state appointees (i.e. board/commission members). The law prohibits any representative from gaining economically from transactions made while serving on such board/commission. Ms. Berndt stated the General Assembly studied the issue of reimbursement of per diem expenses and determined that DEQ had been incorrectly interpreting the law. Therefore, Board members are not entitled and will no longer

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receive reimbursement of per diem (as determined by the Joint Subcommittee for Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities).

Approval of Meeting Minutes for April 22, 2003

Ms. Byrne moved, and Mr. O'Connor seconded, approval of the April 22, 2003 meeting minutes. MOTION CARRIED.

Fund Status Report

Mike Murphy, DEQ, discussed the Litter Prevention and Recycling Revenue History with the Board (1981 to present). He explained that Fiscal Year 1997 was the first in which the fund was allowed to be placed into an account that would accrue interest. The total revenue for litter, beer, and soft drink tax collection is \$1,729,061. Soft drink tax collection has increased, while litter and beer tax revenues have decreased. In the past, the Board has studied the issue of declining revenues. Allan Lassiter, DEQ, explained that litter tax revenue is a flat tax paid per establishment, so the decrease in the amount collected may be due to establishments going out of business. This final accounting for Fiscal Year 2003 will be included in the Board's Annual Report.

Chairman Gallagher requested that Aimee Hadfield, Mike Murphy, Allan Lassiter, and Steve Coe work together on the Litter Control and Recycling Fund Advisory Board's Annual Report.

Summary of Activity

Mr. Murphy stated the final data for litter control and recycling Fund 0925 shows the ending cash balance of \$238,915. This low amount is due to the fact that in May 2003, \$1,972,302 (the cash balance for the litter control and recycling fund) was transferred per the 2003 Budget Bill. The FY 03 and FY 04 Litter Control and Recycling Fund program's competitive grant funds have been eliminated.

Mr. Murphy reported that the Department of Planning and Budget has not released the litter program appropriations for the current fiscal year, so currently no disbursements can be made to localities. He speculated that the funds might be released sometime after the revised projection state revenue announcement in late August.

Steve Coe, DEQ, stated that all special funds for state agencies are frozen. The funds are usually appropriated by July 1 (the beginning of the state's fiscal year), but this year's appropriation has been delayed. The funds would probably be released no later than at the end of the first quarter of the state's fiscal year (October 1). Mr. Coe

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reported that 160 grants were mailed to localities; only 57 have been received as the deadline for submission is August 31.

Mr. Chuck DuVal, VOICE, stated that the businesses across the state that pay taxes specifically geared for use for litter control and recycling are concerned about these funds being put to other uses. He also expressed a concern that some businesses may not be paying the litter tax, thus resulting in a decreased in revenues. He suggested a review of the recycling program in the state to determine if it should be privatized.

FY 02/03 Funding and Expenditure Report

Mr. Coe reported that all prior year competitive grants have been completed and closed out. As of June 30, 2003, the amount of tax revenues to be applied to the competitive grant is \$128,416 (20%). This money has already been appropriated for the state budget, so there will be no competitive grant this year.

Mr. Coe provided an overview document of the litter control and recycling fund, showing the normal calculations versus a working model for FY 04 once funds are released. The General Assembly's state budget amendment called for the non-competitive grant fund to receive \$1,272,750, and the Litter Education Statewide Campaign to receive \$100,000. Program funds are currently being held in the Virginia Emergency Response Fund. It is uncertain whether or not DEQ will be paid for administrative costs (5% - \$86,453).

Ms. Hadfield suggested to Mr. Coe that, for the next fiscal year, he prepare a breakdown showing how many local programs would have been funded.

LPR Grant Applications for FY 2003-2004

Bill Norris, DEQ, provided the board with a list of all localities that applied for non-competitive grants. A total of 167 applications were received, with none being late (in FY 03 out of 171 applications three were late and were not processed). Seventy-nine applications were complete and approved by DEQ. Ms. Byrne stated that the Board's and DEQ staff's work in contacting localities and encouraging them to apply for litter grant funds has paid off.

Mr. Norris stated two localities stated they were not applying for funds this year because of a lack of manpower and/or time. The funds they would have received are included with the calculated amounts determined for the other localities. The Board was given a 2003/2004 Litter Prevention and Recycling Grants Calculated Awards Comparisons chart. Mr. Norris also provided the Board with detailed information on the past years' competitive grants awards. This information is available on DEQ's website.

CY 2003 Litter Awareness Campaign Update

Mike Murphy recused himself from the discussion of the Litter Awareness Campaign.

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Mr. Coe updated the Board and provided materials from the Litter Awareness Campaign. He stated that he and Ms. Byrne would be meeting with the project contractor, Siddall, Inc., the afternoon of August 13, 2003, to receive an update on the progress of the campaign. The contract runs through March of 2004. Mr. Coe stated that campaign material, guidance and assistance is available to local coordinators throughout the state.

Ms. Hadfield stated that she received some complaints from coordinators in the Tidewater area regarding the quality of some of the campaign material (a two sided sticker). Ms. Byrne pointed out that all coordinators were given a chance to voice concerns/give suggestions before the materials were finalized, and that the contractor was not made aware of this concern. Chairman Gallagher asked that local coordinators be encouraged to feel free to give specific complaints/suggestions during the initial phases of any programs meant to benefit them.

Chairman Gallagher requested that a meeting be set up with himself, Ms. Byrne, Mr. Coe and Siddall staff to discuss the possibility of a Phase 3 for the Litter Awareness Campaign.

Recycling Education Trailer

Mr. Coe reported that George Hunnicutt would be picking up the Recycling Education Trailer for use at fairs and other such events in southwest Virginia.

Ms. Byrne moved, and Mr. O'Connor seconded, the Board's expressed appreciation to George "Pedro" Hunnicutt for his efforts with regards to finding an appropriate use for the Recycling Education Trailer. MOTION CARRIED.

Old Business

Mr. Murphy explained to Mr. O'Connor that he has a conflict of interest with regards to the contract for the Litter Awareness Campaign and he therefore cannot be involved with the process of administering this contract.

New Business

Election of Officers for FY 2004 (Code of Virginia 10.1-1422.03C):

Ms. Hadfield moved, and Mr. O'Connor seconded that Dennis P. Gallagher be elected Chairman, and Ms. Rosemary Byrne elected Vice Chairman, of the Virginia Litter Control and Recycling Fund Advisory Board. MOTION CARRIED.

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State Budget: Mr. Murphy reported that the 2003 budget language allows for another transfer of over 1 million dollars, leaving the fund with \$200,000 or less. DEQ requested a fund return to the previous funding level for the litter/recycling program.

Chairman Gallagher stated that several industry groups are perturbed at the way funds earmarked for litter control and recycling are being distributed for other purposes.

Audit of Litter Board Documents: Mr. Murphy reported that the DEQ's internal auditor would be doing a required audit of the litter program's records to ensure that the statutes/guidelines are being followed. Chairman Gallagher requested that the auditor direct her inquiries to the Board to him.

Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities (HJR 159): Mr. Murphy reported that the subcommittee has completed its review of the Litter Board and has determined its necessity/appropriateness, but the Virginia Recycling Markets Development Council is still on its list of entities facing possible elimination. The next meeting of the subcommittee will be September 16 at 1 p.m. in House Room C, General Assembly Building, Richmond, VA.

Video Conferencing Available: Mr. Murphy stated that Bob Burnley, Director of DEQ, asked that he let the Board know that DEQ now has videoconference capabilities in the central and regional offices that is available for use by the Board.

Ms. Byrne moved, and Mr. O'Connor seconded, for adjournment of the meeting. MOTION CARRIED.

NEXT MEETING: NOVEMBER 19, 2003, 10:30 A.M. AT THE DEPARTMENT OF ENVIRONMENTAL QUALITY, 629 EAST MAIN STREET, FIRST FLOOR CONFERENCE ROOM

Submitted by: Valerie Fulcher

Date: August 14, 2003